

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

KENNETH JOHNSON,)	
)	
Plaintiff,)	
)	
v.)	1:21CV13
)	
OFFICER. J. SMITH, et al.,)	
)	
Defendants.)	

ORDER

The Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on January 31, 2023, was served on the parties in this action. (ECF Nos. 26, 27.) Plaintiff filed objections to the Magistrate Judge’s Recommendation, to which Officer Smith responded. (*See* ECF Nos. 28, 29).

The Court has appropriately reviewed the Magistrate Judge’s Recommendation and has made a *de novo* determination in accord with the Magistrate Judge’s Recommendation. The Court therefore adopts the Magistrate Judge’s Recommendation.

IT IS THEREFORE ORDERED that “Defendant Officer J. Smith’s Motion for Summary Judgment as to All Claims”, (ECF No. 20), is **GRANTED** as follows: Plaintiff’s medical deliberate indifference claim is **DISMISSED** without prejudice for failure to exhaust administrative remedies and summary judgment is entered in favor of Officer Smith on Plaintiff’s remaining claims.

A Judgment will be entered contemporaneously with this Order.

This, the 14th day of March 2023.

/s/ Loretta C. Biggs
United States District Judge